

REMARKS

Examiner's Amendment Summary

On 7 October 2003, Applicants' attorney carried out an Interview with Examiner Smith and Supervising Examiner Marschel concerning certain aspects the rejection and strategies for overcoming the rejection. Applicants' attorney had raised concerns over the rejections characterization of the tag-polymerizing agent interaction as being transient, because the claim language was a mended to expressly recite that the tag-polymerization agent interaction was a covalent bond. Applicants' attorney stated that he knew of no more "permanent" attachment format than a covalent bond, while recognizing that all bonds are breakable. Mr. Marschel then articulated that it was more the fact that the claim wording could cover other type of events that would cause the tag to undergo a change in a detectable property that concerned the Patent Office on claim scope. It was then suggested that the addition of language to indicate that the tagged polymerizing agent was to be used in a sequencing reaction may serve to center the claims within the context of the subject matter of the specification. The language may also simultaneously clarify and distinguish the claims over other types of reactions that may also cause a change in the detectable tag property such as attachment of a transition state analog to the polymerization agent. Applicants' attorney agreed to respond to the Office Action with a set of amended claims with language designed to clarify and distinguish the claims over the cited prior art and to act as a vehicle for a potential second Examiner's interview.

DETAILED ACTION AND RESPONSE

Applicants acknowledge that the Examiner stated:

Applicants' amendments and remarks in Paper No. 16 and 20, filed 4/3/03 and 6/20/03, are acknowledged. Amended claims 1, 7, 10, 16, and 20 are acknowledged. The species election requirement is hereby withdrawn as generic claim 10 appears to be free of the prior art.

Applicants acknowledge that the Examiner stated:

Applicants' arguments, filed 4/3/03, have been fully considered but they are not deemed to be persuasive. Rejections and/or objections not reiterated from the previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the set presently being applied to the instant application.

Applicants acknowledge that the Examiner stated:

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR § 821 (a)(1) and (a)(2). However, this with the requirements of 37 CFR § 1.821 through